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I. THE CLAIM AMENDMENTS

Page 24 of 29

1 II. THE CLAIMS ARE NOT ANTICIPATED BY WEINGARDT

2 The Final Office Action rejected claims 24-31, 33, 71-78, 80, 82-89, 91, 93-100, and 102
3 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,275,400 to Weingardt et al.
4 (“Weingardt” or the “Weingardt patent”). The Applicants respectfully submit that the claims are
5 not anticipated by Weingardt.

6 The Weingardt patent discloses a gaming system in which a common pari-mutuel pool is
7 established for the disbursement of all payoffs in the games offered in the gaming system
8 (Weingardt at col. 4, lines 63-65). Funding for various progressive pools is derived from the
9 common pool only when the common pool has sufficient funds (Weingardt at col. 5, lines 1-12).
10 It is important to note that Weingardt discloses that funds from the common pool are deposited
11 into the progressive prize pools only upon attainment of a specified level of money in the
12 common pool as set out in Weingardt at col. 5, lines 26-32. Thus Weingardt does not disclose
13 that every wager is used to fund the progressive pools, but only wagers after a specified level of
14 money is attained in the common pool. This is necessary in the system disclosed in Weingardt
15 because the common pool is used as a source of funds for payment of non-progressive pay table
16 prizes in addition to progressive prizes (See Weingardt at col. 4, lines 64-65).

17 Weingardt also discloses that the value of each credit accrued to a player is only
18 determined at the time the player wishes to cash out of the gaming system (Weingardt at col. 8,
19 lines 3-8, and at col. 12, lines 43-47). Thus although players accrue credits for certain winning
20 events in the gaming system, the credits do not have any monetary value at the time they accrue.
21 Stated another way, the gaming system disclosed in Weingardt does not make any monetary
22 payment either in the form of cash or credit for nonprogressive wins. Also, the system disclosed

1 in Weingardt does not pay any present monetary value for progressive wins, only credits for
2 which a value will be calculated at the time the player cashes out.

3 Claim 24 is amended above to require a monetary payout when the gaming result is a
4 winning result but not a winning progressive jackpot result. Because the Weingardt patent does
5 not teach or suggest this limitation, claim 24 is not anticipated by the Weingardt patent. This
6 same argument applies with equal force to independent claims 26, 30-34, 71, 73, 74, 78-82, and
7 93. The Applicants submit that all of these claims and their respective dependent claims are
8 allowable over Weingardt.

9 Claim 24 is also amended above to clarify that the progressive jackpots are funded by a
10 respective percentage of each wager placed in the gaming system. As discussed above, the
11 Weingardt patent does not disclose this feature. Rather, Weingardt specifically discloses that
12 progressive pools are funded only after the common pool attains a certain value (Weingardt at
13 col. 5, lines 26-32). Thus Weingardt does not anticipate claim 24 for this additional reason. This
14 same argument applies with equal force to claims 26, 30-34, 71, 73, 74, 77-82, and 93, and thus
15 all of these claims should be allowable over Weingardt.

16 With regard to Applicants' claim 27, this claim is amended above to include the limitation
17 previously set out at claim 28, namely, that the progressive jackpot reset amounts are different for
18 the two progressive jackpots, with the second progressive jackpot reset amount being larger than
19 the first. The Final Office Action pointed to Figure 4 of the Weingardt patent for making the
20 rejection of claim 28 (Final Office Action at p. 3, lines 5-9). However, the Applicants' believe
21 that nothing in Weingardt's Figure 4 teaches or suggests the limitation that the progressive

1 jackpot reset amounts are different. Thus the Applicants respectfully submit that claim 27 as
2 amended above is not anticipated by Weingardt and is entitled to allowance over that reference.

3 With regard to claim 29, which is not amended above, the Applicants respectfully submit
4 that the gaming system in Weingardt, being a purely pari-mutuel gaming system, is not amenable
5 to application to a single gaming machine. Nothing in Weingardt suggests that the system could
6 include only a single gaming machine. Therefore the Applicants respectfully submit that claim
7 29 is entitled to allowance over the Weingardt patent.

8 With regard to claims 82 and 93, the Final Office Action cites Figure 3 of Weingardt for
9 the proposition that the largest of either progressive jackpot is paid for the gaming result.
10 However, the Applicants submit that nothing in Weingardt, Figure 3 or elsewhere, teaches or
11 suggests that the largest of two progressive jackpots are paid for a given progressive winning
12 result. Thus the Applicants submit that claims 82 and 93 are allowable over Weingardt for this
13 additional reason.

14 For all of these reasons the Applicants submit that the claims as amended above are
15 entitled to allowance over the Weingardt patent.

16 17 III. THE CLAIMS ARE NOT OBVIOUS OVER THE CITED REFERENCES

18 The Final Office Action rejected claims 32, 34, 79, 81, 90, 92, 101, and 103 under 35
19 U.S.C. §103(a) as being unpatentable over Weingardt in view of U.S. Patent No. 5,393,061 to
20 Manship ("Manship" or the "Manship patent"). The Applicants believe that the claims as
21 amended above are not obvious in view of the proposed combination of Weingardt and Manship.

1 The Final Office Action cited the Manship patent for its disclosure of activating a
2 plurality of paylines in a reel-type game. However, nothing in the Manship patent makes up for
3 the deficiencies of Weingardt with respect to the claims discussed above in Section II. Thus the
4 proposed combination of Weingardt and Manship cannot include all of the limitations required in
5 the independent claims and they are entitled to allowance over the proposed combination
6 together with their respective dependent claims, including claims 32, 34, 79, 81, 90, 92, 101, and
7 103.

8 Furthermore the Applicants submit that the mere mention in Weingardt that the pari-
9 mutuel system disclosed in that patent is applicable to reel-type machines (at Weingardt, col. 6,
10 lines 35-45) does not provide any reason for modifying Weingardt to include the various payline
11 activation arrangements set out in claims 32, 34, 79, 81, 90, 92, 101, and 103. The Applicants
12 therefore submit that claims 32, 34, 79, 81, 90, 92, 101, and 103 are not obvious in view of the
13 proposed combination of Weingardt and Manship, and are entitled to allowance.

1 IV. CONCLUSION

2 For all of the above reasons, the Applicants respectfully request reconsideration and
3 allowance of claims 24, 26, 27, 29-34, 71, 73-75, 77-83, 85-94, and 96-103.

4 If any issue remains as to the allowability of these claims, or if a conference might
5 expedite allowance of the claims, the Examiner is asked to telephone the undersigned attorney
6 prior to issuing a further action in this case.

7 Respectfully submitted,

8 The Culbertson Group, P.C.

9
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